

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
NOVEMBER 8, 2017**

**CALL TO ORDER**      A meeting of the Flathead County Planning Board was called to order at  
*6:00 pm*                      approximately 6:00 p.m. at South Campus Building, 40 11<sup>th</sup> Street W, Ste.  
200, Kalispell, Montana. Board members present were Dean Sirucek, Greg  
Stevens, Sandra Nogal, Jeff Larsen, and Rita Hall. Mike Horn, Jim Heim, Ron  
Schlegel, and Kevin Lake had excused absences. Rachel Ezell, Kari Nielsen,  
and Mark Mussman represented the Flathead County Planning & Zoning  
Office.

There were 7 members of the public in attendance.

**APPROVAL OF**              Nogal made a motion, seconded by Sirucek, to approve the October 11, 2017  
**MEETING**  
**MINUTES**                      meeting minutes.

*6:01 pm*                      Motion carried by quorum.

**PUBLIC  
COMMENT**

*(Public matters that  
are within the  
jurisdiction of the  
Board 2-3-103  
M.C.A)  
6:01 pm*

None

**RESUBDIVISION**      A request from Cherie Hansen with technical assistance from TD&H  
**LOT 14A, EAGLE**      Engineering for preliminary plat approval of the Resubdivision of Lot 14A,  
**BEND WEST NO 5**      Eagle Bend West No. 5, a proposal to divide the property into the two  
**(FPP-17-08)**              originally created lots of the Eagle Bend subdivision. The property is located  
*6:01 PM*                      at 316 and 318 Canal Street and would be served by the Bigfork Water and  
Sewer District. The property is currently zoned RC-1 (Residential Cluster)  
and can legally be described as Lot 14A in Eagle Bend West No. 5 in Section  
27, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**STAFF REPORT**              Ezell reviewed staff report FPP-17-08 for the board.  
*6:02 pm*

**BOARD  
QUESTIONS**  
*6:06 pm*

None

**APPLICANT  
PRESENTATION  
6:06 pm**

Richard Swan, TD&H Engineering, said that he did not have a presentation but wanted to point out that Cherie intended to remove the garage and construct a place of residence in that location.

**BOARD  
QUESTIONS  
6:07 pm**

Siruek wondered if there was a timeline and Richard stated that she understood it had to be done before final plat.

**AGENCY  
COMMENTS  
6:07 pm**

None

**PUBLIC  
COMMENT  
6:08 pm**

Bill Winslet, 235 Harbor Dr., who is the President of Eagle Bend W Community Association, wanted to show they were in full support of the application but wanted to reaffirm they would like the structure removed. He said Cherie indicated it would be removed before the final plat. The HOA said that they had no objection.

**STAFF  
REBUTTAL/  
COMMENTS  
6:09 pm**

None

**APPLICANT  
REBUTTAL/  
COMMENTS  
6:09 pm**

None

**BOARD  
QUESTIONS  
6:09 pm**

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FACT)  
6:10 pm**

Sirucek made a motion, seconded by Nogal, to adopt staff report FPP-17-08 as findings of fact.

**BOARD  
DISCUSSION  
6:10 pm**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FACT)  
6:10 pm**

Motion was passed on a roll call vote.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
6:11 pm**

Sirucek made a motion, seconded by Hall, to recommended approval to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:11 pm**

Stevens said he did not see anything in the conditions regarding removal of the structure. Ezell pointed out that it was in BLUAC conditions. She also explained that the applicants were well aware that it was to be removed prior to final plat. She stated it would be fine to add it to the conditions but it was in the BLUAC conditions. She also stated that if it was not removed then it would be considered a zoning violation. Stevens wanted to make sure everyone understood they could not mandate compliance with the HOAs.

Nogal stated, for clarification, that it would be a zoning violation if the structure was not removed.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-17-08)  
6:17 pm**

On a roll call vote the motion passed unanimously.

**PHEASANT  
RIDGE ESTATES  
(FPP-17-07)  
6:18 PM**

A request from Michael Fraser and Strickland Family Trust with technical assistance from Eby and Associates and Land Solutions for preliminary plat approval of Pheasant Ridge Estates, a proposal to create 14 residential lots ranging in size from 2.0 to 2.3 acres. Each lot would be served by individual wells and wastewater treatment systems. The property is located off Smith Lake Road and contains approximately 29.9 acres. The property can legally be described as Tract 4AC in Section 16, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

**STAFF REPORT  
6:19 pm**

Nielsen reviewed staff report FPP-17-07 for the board.

**BOARD  
QUESTIONS  
6:21 pm**

Stevens asked to see the map of the wetland again.

Nogal wanted clarification as to what the fire department wanted. The requirements were discussed again, which were disclosed in the board's packets. Nogal wanted clarification if they wanted a well for each lot. The answer was no and was on the updated plan. Hall wondered if the updated plan was included on the CD and Nielsen said it was.

Sirucek wondered if there was a condition for the water meter. Nielsen said no that would be conditioned through the DRNC, not Planning and Zoning.

Sirucek wanted to know about a setback for the wetlands. Nielsen went through some proposed conditions. Sirucek's concerns were that they wanted lot 7 & 8 to go away and that he was unsure that those [areas] met the federal jurisdiction for wetlands, however, in some years the water table did go down. He stated that we were currently in a drought year and he was concerned about the conditional offer as it was now, considering what the Fish and Wildlife Agency was trying to protect. Nielsen encouraged him to change the condition. Stevens suggested they listen to the engineer first.

Nogal was concerned about the environmental assessment estimate regarding the usage of water and number of residents that will be occupying. She questioned the number given for residents per house. They discussed this in depth.

Hall, after having visited the site in person, stated that she wished there were larger tracks for the area.

**APPLICANT  
PRESENTATION  
6:31 pm**

Mike Fraser, 690 W Meridian, Ste. 103, started his presentation by going through the map and the already developed subdivisions in the area. He pointed out those properties were various sizes and zones. The subject property was purchased in 2008 and at that time was parceled for hay. That is what they have partially used it for since then. He discussed looking at residential use of the property and the allowable irrigation area. He wanted to keep natural environment as a part of the proposed development, including natural grass surrounding the lots. He also stated that if a larger home were put on a lot, they would lose some of their yard due to the water restriction. He then discussed, in more detail, the water concern and the requests the DNRC had made. He was cognitive of their request and issue of monitoring water consumption. He also addressed the no build zone, well above Ashley Creek, and stated he wanted to see the preservation of that area as well. He then discussed, in length, the wetland area. He had monitored the wetland for a season and was in support of the staff's recommendation to call it a no build zone. He stated that lots 7 & 8 were definitely wetlands.

He addressed the Smith Valley Fire Department's request for a 30,000 gallon tank and 500 gallon pump. He compared neighborhoods close by and the access they had. He felt like what they were asking for was excessive and he asked that the board revisit that and remove that condition.

He also addressed the road concerns and said he had addressed them with the Public Works Director. He was told that basically there was nothing that could really be done. He then discussed some of the statistics for traffic in nearby

developments.

He addressed the board's comments and concerns, which included price, size, and occupancy averages per house.

**BOARD  
QUESTIONS  
6:46 pm**

Stevens wanted to know if Fraser had discussed his concerns with the Fire Department and he replied that he had not. Stevens also asked for clarification as to how they identified the wetlands. Sirucek said they have used infrared photography in year's past. Stevens asked how reliable the photos were and what time of year it was photographed. Sirucek stated that the aerial photos were usually taken in July or August. Fraser clarified the dimensions of the wetland of concern and answered their questions about the depressions on the map. Sirucek also clarified that the depressions being discussed were formed during the glacial melt period and were depositional areas. Fraser pointed out that area was not jurisdictional because they were not hydraulically and physically connected to a heavy water stream. He also said that he did not have a problem with the no build zone. Stevens understood but just wanted clarification as to whether the depressions were man made and what could be done with them.

Larsen had questions about lawn match, the DNRC standard, and the restrictions of irrigating. Larson said the numbers were pretty tight and Fraser said that he did not want to go above the water rate because he did not want to deal the potential depletion of Ashley Creek.

Hall wanted to know where he was proposing to put the wells and Fraser pointed out the pump house, the storage tank, and the two wells out on the presentation overhead.

**AGENCY  
COMMENTS  
6:52 pm**

None

**PUBLIC  
COMMENT  
6:52 pm**

Alan Wendt, 940 Clark Dr., is a professional engineer and has worked with Fraser on previous projects. He addressed some of the agency comments, specifically the road. He stated that it was not the optimal intersection but it was as good as it could get with the elevation change.

He also addressed the water system and the fire suppression system that the Fire Department's recommendation. He felt like it was a bit onerous for a 14 lot subdivision. He pointed out that the subdivision across the road was not required to have one. He commented Buffalo was designed for 140 lots but only had 36. They had quite a surplus of storage. He questioned the need for that particular finding of fact and requested that one of the board members talk about that with the Fire Department. He was in support of approval.

Russell Purdy, 310 Jossie Lane, has been a realtor for 20 years and currently farms hay. He said that he had passed on that particular land many times because it would not support it. He supported the change of usage of the land in question. He also addressed the comment of housing pricing per square foot. He said that new construction was going for \$195k-\$210k for a 1200-1300 sq. ft. house. He stated his support for the proposal and felt like it was the best use of the land.

**STAFF  
REBUTTAL/  
COMMENTS**  
*6:58 pm*

None

**APPLICANT  
REBUTTAL/  
COMMENTS**  
*6:58 pm*

Fraser also voiced that he hoped the Interlake article would not influence the boards view because he felt like they had reported some of the facts and not all.

**BOARD  
QUESTIONS**  
*6:59 pm*

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FACT)**  
*6:59 pm*

Sirurcek made a motion, seconded by Hall, to adopt staff report FPP-17-08 as findings of fact.

**BOARD  
DISCUSSION**  
*7:00 pm*

Hall addressed the Fire Department's recommendation for each property to have their own well. Fraser proposed that there be two community wells, so she wondered if their recommendation was still relevant.

Nogal was concerned that nobody had talked to Smith Valley Fire Department and the finding of fact had been based on number 6. She wondered how they could accept the FOF if the Fire Dept. was not present to ask questions. Stevens said the Fire Dept. was going to have to determine what was reasonable. Larsen said that what he usually saw with the conditions was that the Fire Dept. would usually comply with reasonable fire suppression standards but there was a question of what one considered reasonable. Stevens said that the Fire Department was going to have to determine what was reasonable.

Sirucek voiced an issue that he had with finding #12, regarding the wetland. He felt like the wording was conflicting, specifically that there was a "thou shalt" and then a condition on it. He did not have a problem with the finding of fact but he had a problem with the wording in that specific condition.

**ROLL CALL TO  
ADOPT F.O.F.  
7:06 pm**

Motion was passed on a roll call vote.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
7:07 pm**

Stevens made a motion, seconded by Hall, to forward a favorable recommendation of approval to the Board of County Commissioners.

**BOARD  
DISCUSSION  
7:07 pm**

Stevens had a couple of comments regarding condition #17 and the requests made by the Fire Department. Larsen acknowledged that the board does not deem a condition as reasonable or not. Stevens stated that the applicant needed to go the Fire Dept. and get a letter from the fire chief stating that his proposal met requirements and turn it in with the final plat application.

**MOTION TO  
CHANGE  
CONDITION #17  
7:09 pm**

Stevens made the motion to change condition #17 to read that the applicant will comply with all reasonable fire suppression and access requirements of the Smith Valley Fire District and a letter from the fire chief stating the plat meets the applicable requirements of the district shall be submitted with the application for final plat. It was seconded by Hall.

**ROLL CALL  
7:10 pm**

Motion was passed on a roll call vote.

**CONTINUATION  
OF BOARD  
DISCUSSION.  
7:10 pm**

Larsen questioned if they needed to change condition #16. Nogal said that it was subdivision rules. Larsen questioned if they would have hydrants on there. Nielsen read the conditions. Larsen wanted the condition to comply with section 4.7.26(e). Nielsen said that it needed to comply.

**MOTION TO  
CHANGE  
CONDITION #16  
7:13 pm**

Nogal made a motion that they change condition #16 to read as the proposed water supply for fire suppression shall meet all applicable requirements set forth in section 4.7.26(e). Sirucek seconded the motion.

**ROLL CALL TO  
CHANGE  
CONDITION #16  
7:14 pm**

Motion was passed on a roll call vote.

**CONTINUATION  
OF BOARD  
DISCUSSION.  
7:14 pm**

Sirucek addressed condition #14 regarding the no build zone. They discussed the exact verbiage that should be used.



**MOTION TO  
CHANGE  
CONDITION #14  
7:15 pm**

Sirucek made the motion that the #14 condition would read that the area classified in the national wetlands database should be shown and labeled as a no build zone on the face of the final plat. Larsen seconded the motion.

**ROLL CALL TO  
CHANGE  
CONDITION #14  
7:17 pm**

Motion was passed on a roll call vote.

**CONTINUATION  
OF BOARD  
DISCUSSION.  
7:17 pm**

Stevens addressed the request from Montana Fish, Wildlife, and Parks that lots 7 and 8 be maintained for wildlife migratory birds and free from development. He stated that nearby there were thousands of acres that were already being maintained by Fish and Wildlife Service and they did not have any suggestions in line with it. He found the request to be bizarre and requested that it be put in the record. He also stated that they were not here, in his view, to design subdivisions to their own esthetic tastes; as far as the lot size, the lot configuration, or anything else, no matter if they liked it or did not like it. They were here to determine if the application complied with the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations in regards to health and safety. Whether he thought that Fraser had designed a bad subdivision or a good subdivision was irrelevant.

Larsen addressed the intersection as being a safety concern. Nielsen showed the board the intersection on the map. Larsen said it was hard to see and was at an angle. He suggested there might be a 3 way stop put in or a reasonable option to help with safety. He wondered if there was a condition that they could add, or a recommendation, such as a consultation with the road department. Nogal mentioned that she is partial to anything that would help with the public safety. Larsen suggested they put in a condition that they ask the road department to see what they could do for the safety. He suggested yield signs and/or stop signs that would help and would not be costly. He felt like those were reasonable things that help with safety. Staff mentioned that the road department was already aware of the problem but were not addressing it at this time. They all agreed that they were concerned about present safety concerns and discussed the best way to go about it.

**MOTION TO ADD  
CONDITION #18  
7:29 pm**

Sirucek moved that condition #18 be that the applicant contact the County Road Dept. to see if there was an opportunity for placement of reasonable safety improvements, such as signage, to the intersection of Whalebone Drive and Smith Lake Road. Larsen seconded the motion.

Stevens asked how the applicant felt about this new condition. Fraser said he spoke with Dave Prunty of the Flathead County Road and Bridge Dept. Fraser said that he was in support of safety improvements if there were a history of accidents. He said that if there were no accidents, the conclusion could be that



it is a terrible intersection but people would adapt. He did not have a problem discussing things with Dave and complying with their suggestion.

**ROLL CALL TO  
ADD CONDITION**

**#18**

**7:32 pm**

Motion was passed on a roll call vote.

**CONTINUATION  
OF BOARD  
DISCUSSION.**

**7:32 pm**

Jeff was concerned about the irrigation limitation and believed it to be tight. He said that it needed to be locked in to the HOA/CC&R's documents and metered because that was not something that the county could do and it was very difficult to enforce. It was not something that they were going to address at this time.

Fraser was fully aware of that and said that he planned on tying that in so that the buyers understood what was expected.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-17-07)**

**7:34 pm**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS**

**7:34 pm**

None

**NEW BUSINESS**

**7:35 pm**

Mark reviewed a memo that he had sent the board regarding updating the growth policy that was to be reviewed every 5 years. The board and staff discussed in great length whether or not it was necessary at this time. Mark also mentioned that the census was to be done in 2020 and he felt like it would be a good time to update it at that time.

Stevens addressed his concerns over the land use map and zoning and the public's response to designated land use. He also wanted to point out that this was a very large and diverse county.

**MOTION TO  
SUPPORT MEMO**

**8:00 pm**

Sirucek motioned to support Mark's memo regarding the Flathead County 5 year review. Nogal seconded the motion.

**MOTION TO  
DELETE PART  
OF MEMO**

Stevens motioned to delete the third sentence on the second page, regarding the land use map. Nobody seconded Steven's motion.

**ROLL CALL TO  
SUPPORT THE  
MEMO**  
*8:02 pm*

Motion was passed on a roll call vote. Stevens and Hall dissented.

**ADJOURMENT**  
*8:03 pm*

The meeting was adjourned on a motion by Sirucek and Nogal at approximately 8:03. The next meeting will be held December 13, 2017.

  
\_\_\_\_\_  
Jeff Larsen, Chairman  
\_\_\_\_\_  
Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 12 / 13 /17